



General Assembly

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**Amendment**

LCO No. 9195

**\*SB0118309195SD0\***

Offered by:

SEN. WILLIAMS, 29<sup>th</sup> Dist.

SEN. LOONEY, 11<sup>th</sup> Dist.

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SEN. MCDONALD, 27<sup>th</sup> Dist.

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SEN. SLOSSBERG, 14<sup>th</sup> Dist.

To: Subst. Senate Bill No. 1183

File No. 809

Cal. No. 357

**"AN ACT CONCERNING THE PENSIONS OF STATE AND MUNICIPAL EMPLOYEES OR PUBLIC OFFICIALS CONVICTED OF FRAUD OR CORRUPTION AND THE PROTECTION OF WHISTLEBLOWERS."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 3,  
4 inclusive, of this act:

5 (1) "Public official" means public official, as defined in section 1-79  
6 of the general statutes, a judge of any court either elected or appointed,  
7 and any elected or appointed municipal official;

8 (2) "State or municipal employee" means state employee, as defined  
9 in section 5-154 of the general statutes, and includes an employee of  
10 any quasi-public agency, as defined in section 1-120 of the general

11 statutes, or any person, whether appointed, or under contract, who  
12 provides services for a city, town or other political subdivision of the  
13 state for which a pension is provided; and

14 (3) "Crime related to state or municipal office" means any of the  
15 following criminal offenses committed by a person while serving as a  
16 public official or state or municipal employee:

17 (A) The committing, aiding or abetting of an embezzlement of  
18 public funds from the state, a municipality or a quasi-public agency;

19 (B) The committing, aiding or abetting of any felonious theft from  
20 the state, a municipality or a quasi-public agency;

21 (C) Bribery in connection with service as a public official or state or  
22 municipal employee; or

23 (D) The committing of any felony by such person who, wilfully and  
24 with the intent to defraud, realizes or obtains, or attempts to realize or  
25 obtain, a profit, gain or advantage for himself or herself or for some  
26 other person, through the use or attempted use of the power, rights,  
27 privileges or duties of his or her position as a public official or state or  
28 municipal employee.

29 Sec. 2. (NEW) (*Effective from passage*) (a) (1) Notwithstanding any  
30 provision of the general statutes, if any person is convicted or pleads  
31 guilty or nolo contendere to any crime related to state or municipal  
32 office in state or federal court, the Attorney General shall apply to the  
33 Superior Court for an order to revoke or reduce the pension of any  
34 kind to which such person is otherwise entitled under the general  
35 statutes for service as a public official or state or municipal employee.

36 (2) Notwithstanding the provisions of subdivision (1) of this  
37 subsection, if any state or municipal employee covered by a collective  
38 bargaining agreement is convicted or pleads guilty or nolo contendere  
39 to any crime related to state or municipal office, in either federal or  
40 state court, and the court determines that such employee's pension

41 shall be revoked or reduced, the value of such reduction or revocation  
42 shall not exceed the amount necessary to satisfy any fine, restitution or  
43 other monetary order made by the court in addition to the amount  
44 necessary to pay the cost of such employee's incarceration, as  
45 determined pursuant to section 18-85a of the general statutes.

46 (b) In determining whether the pension shall be revoked or reduced,  
47 the Superior Court shall consider and make findings on the following  
48 factors:

49 (1) The severity of the crime related to state or municipal office for  
50 which the person has been convicted or to which the person has pled  
51 guilty or nolo contendere;

52 (2) The amount of monetary loss suffered by the state, a  
53 municipality or a quasi-public agency or by any other person as a  
54 result of the crime related to state or municipal office;

55 (3) The degree of public trust reposed in the person by virtue of the  
56 person's position as a public official or state or municipal employee;

57 (4) If the crime related to state or municipal office was part of a  
58 fraudulent scheme against the state or a municipality, the role of the  
59 person in the fraudulent scheme against the state or a municipality;  
60 and

61 (5) Any such other factors as, in the judgment of the Superior Court,  
62 justice may require.

63 (c) If the court determines, or the Attorney General certifies, that a  
64 public official or state or municipal employee who was convicted or  
65 pled guilty or nolo contendere to a crime related to state or municipal  
66 office, voluntarily provided information to the Attorney General, the  
67 Auditors of Public Accounts or any state, federal or local law  
68 enforcement official concerning the commission of such crime related  
69 to state or municipal office by another public official or state or  
70 municipal employee who had a greater degree of culpability for such

71 crime than the public official or state or municipal employee providing  
72 such information, the court shall not reduce or revoke the pension of  
73 such public official or state or municipal employee, provided such  
74 public official or state or municipal employee voluntarily provided  
75 such information prior to learning of a criminal investigation into such  
76 crime related to state or municipal office.

77 (d) If the Superior Court determines that the pension of a person  
78 should be reduced, it may, after taking into consideration the financial  
79 needs and resources of any innocent spouse, dependents and  
80 designated beneficiaries of the person, order that some or all of the  
81 reduced pension be paid to any such innocent spouse, dependent or  
82 beneficiary as justice may require.

83 (e) If the Superior Court determines that the pension of such person  
84 should not be revoked or reduced, it shall order that the retirement or  
85 other benefit or payment be made to such person.

86 (f) If the court determines that the pension of a public official or  
87 state or municipal employee should be reduced or revoked, the court  
88 may order that such reduction or revocation be effective as of the date  
89 of the first act undertaken by such official or employee that constituted  
90 a crime related to state or municipal office.

91 Sec. 3. (NEW) (*Effective from passage*) (a) Any person whose pension  
92 is revoked pursuant to section 2 of this act shall be entitled to a return  
93 of his or her contribution paid into the relevant pension fund, without  
94 interest.

95 (b) Notwithstanding the provisions of subsection (a) of this section,  
96 no payments in return of contributions shall be made or ordered  
97 unless and until the Superior Court determines that the person whose  
98 pension has been revoked pursuant to section 2 of this act has satisfied  
99 in full any judgments or orders rendered by any court of competent  
100 jurisdiction for the payment of restitution to the state or a municipality  
101 for losses incurred as a result of the crime related to state or municipal  
102 office. If the Superior Court determines that the person whose pension

103 has been revoked under section 2 of this act has failed to satisfy any  
104 outstanding judgment or order of restitution rendered by any court of  
105 competent jurisdiction, it may order that any funds otherwise due to  
106 such person as a return of contribution, or any portion thereof, be paid  
107 in satisfaction of the judgment or order.

108 (c) No provision of section 2 of this act or this section shall be  
109 construed to prohibit or limit any payment made pursuant to a  
110 qualified domestic relations order issued prior to any such conviction  
111 or plea by: (1) Any public official or state or municipal employee who  
112 is convicted or pleads guilty or nolo contendere to any crime related to  
113 state or municipal office; or (2) any state or municipal agency  
114 responsible for the administration of such payment on behalf of such  
115 public official or state or municipal employee.

116 (d) Notwithstanding the provisions of section 2 of this act, no  
117 pension shall be reduced or revoked if the Internal Revenue Service  
118 determines that such reduction or revocation will negatively affect or  
119 invalidate the status of the state's government retirement plans or a  
120 municipality's government retirement plans under Section 401(a) of  
121 the Internal Revenue Code of 1986, or any subsequent corresponding  
122 internal revenue code of the United States, as from time to time  
123 amended.

124 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) Any municipality may, by  
125 ordinance adopted by its legislative body or in any town in which the  
126 legislative body is a town meeting, by the board of selectmen, provide  
127 for the recall of any elected official of a municipality who is elected to a  
128 term of four years, provided such ordinance complies with the  
129 provisions of this section.

130 (b) Any such ordinance shall provide for the recall of any elected  
131 official of the municipality for any of the following reasons, provided  
132 such conduct occurred during the official's term of office: (1)  
133 Misappropriation of public property or funds, (2) violation of the oath  
134 of office, (3) any felony conviction, (4) any act of malfeasance that

135 adversely affects the rights and interests of the public, and (5) failure to  
136 perform any duty prescribed by law.

137 (c) No such ordinance shall authorize the recall of such an elected  
138 official during the first one hundred twenty days of such official's term  
139 or during the final one hundred twenty days of such official's term.

140 (d) Such ordinance shall authorize any three residents of such  
141 municipality who are electors to initiate the recall of such elected  
142 official by filing a joint affidavit with the town clerk of the  
143 municipality which: (1) States the name of such elected official, (2)  
144 requests recall petition forms, (3) attests that such electors, in good  
145 faith, desire and propose to file a petition for the recall of such elected  
146 official, and (4) contains a detailed statement of the grounds alleged for  
147 such recall. Upon the filing of such affidavit, the town clerk shall issue  
148 recall petition forms to such residents. Any resident of the  
149 municipality who is an elector may sign said petition.

150 (e) The Secretary of the State shall prescribe the form of the recall  
151 petition described in subsection (d) of this section and such petition  
152 shall be available from the town clerk of any municipality that  
153 authorizes the recall of such elected officials. The recall petition form  
154 shall include a space for the name and office of the official whose recall  
155 is sought, a space for the electors who are initiating such recall to  
156 indicate the grounds for such recall, a statement that the purpose of the  
157 petition is to seek a referendum on the recall of such official, a  
158 statement of instructions to persons circulating the petition, lines for  
159 the signatures, street addresses and dates of births of persons signing  
160 the petition, spaces for the time and date on which the completed  
161 petition is filed with the town clerk and spaces for the information  
162 required under subsection (f) of this section concerning the circulation  
163 of the petition.

164 (f) Such ordinance shall provide that each circulator of a recall  
165 petition page shall be a resident of such municipality and an elector.  
166 Each separate page of such petition shall contain a statement as to the

167 authenticity of the signatures on the petition and the number of such  
168 signatures, and shall be signed under the penalties of false statement  
169 by the circulator of the petition page, setting forth such circulator's  
170 address and attesting that each person whose name appears on such  
171 sheet signed the same in person in the presence of such circulator, that  
172 the circulator either knows each such signer or that the signer  
173 satisfactorily identified the signer to the circulator. Each separate sheet  
174 of such petition shall also be acknowledged before an appropriate  
175 person as provided in section 1-29 of the general statutes.

176 (g) Any person who signs a name other than the person's own to a  
177 recall petition or who signs a name other than the person's own as  
178 circulator of said petition shall be fined not more than one hundred  
179 dollars or imprisoned not more than one year, or both.

180 (h) Such ordinance shall provide that no petition for the recall of an  
181 official shall be effective unless filed with the town clerk not later than  
182 four o'clock p.m. on the sixtieth calendar day after the town clerk  
183 issues petition forms for such recall under subsection (d) of this  
184 section. Upon the filing of a recall petition, the town clerk shall sign  
185 and give to the person so submitting a page or pages of such petition a  
186 receipt indicating the number of such pages filed and the date and  
187 time when such pages were filed. The town clerk shall forthwith  
188 transmit the petition to the registrars of voters of the municipality who  
189 shall forthwith certify on each such petition page the number of  
190 signers on the page who are electors in the municipality. In the  
191 checking of signatures on recall petition pages, the registrars shall  
192 reject any name if such name does not appear on the last-completed  
193 active registry list in the municipality. The registrars shall not reject  
194 any name for which the street address on the petition is different from  
195 the street address on the registry list, if the person's date of birth, as  
196 shown on the petition page, is the same as the date of birth on the  
197 person's registration record. Each petition page shall contain a  
198 statement signed by a registrar of voters of said municipality attesting  
199 that the circulator is a resident of said municipality and an elector.  
200 Unless such a statement by a registrar appears on each page so

201 submitted, the registrars shall reject such page. Any page of a petition  
202 that does not contain a statement by the circulator as to the  
203 authenticity of the signatures on the page, or upon which the  
204 statement of the circulator is incomplete in any respect shall be rejected  
205 by the registrars. The registrars shall also reject any page of a petition  
206 they determine to have been circulated in violation of any other  
207 provision of this section. The registrars shall complete their verification  
208 of petition signatures and return the petition with their certifications to  
209 the town clerk not later than seven calendar days after the petition is  
210 filed with the town clerk.

211 (i) If, upon receiving a recall petition from the registrars of voters  
212 under subsection (h) of this section, the town clerk determines that the  
213 number of valid signatures on the petition is at least: (1) Thirty per cent  
214 of the total number of electors whose names appear on the active  
215 registry list of said municipality for a municipality with a population  
216 of less than one thousand persons, (2) twenty-five per cent of the total  
217 number of electors whose names appear on the active registry list of  
218 said municipality for a municipality with a population of not less than  
219 one thousand persons but not more than nine thousand nine hundred  
220 ninety-nine persons, (3) twenty per cent of the total number of electors  
221 whose names appear on the active registry list of said municipality for  
222 a municipality with a population of not less than ten thousand persons  
223 but not more than forty-nine thousand nine hundred ninety-nine  
224 persons, (4) fifteen per cent of the total number of electors whose  
225 names appear on the active registry list of said municipality for a  
226 municipality with a population of not less than fifty thousand persons  
227 but not more than ninety-nine thousand nine hundred ninety-nine  
228 persons, or (5) ten per cent of the total number of electors whose names  
229 appear on the active registry list of said municipality for a municipality  
230 with a population of not less than one hundred thousand persons, as  
231 applicable, (A) the town clerk shall forthwith certify the petition and  
232 submit said certification to the legislative body of the municipality,  
233 and (B) said legislative body shall, not later than seven days after  
234 receipt of said certification, order a referendum to be held on the recall

235 of such elected official of the municipality not later than thirty days  
236 after receipt of said certification.

237 (j) Any recall referendum conducted pursuant to this section shall  
238 also be conducted in accordance with the provisions of chapter 152 of  
239 the general statutes, provided such referendum shall only be valid if  
240 twenty-five per cent or more of the number of electors whose names  
241 appeared on the active registry list of said municipality at the time of  
242 the last municipal election vote in such referendum. The form of the  
243 question to be used on the voting machine ballot labels and absentee  
244 ballots at said referendum shall be "Shall (name of the official and  
245 office) be recalled?" If, upon the official determination of the results of  
246 such vote, a majority of all the votes cast are in approval of the  
247 question, the elected official's office shall be vacant and shall be filled  
248 in accordance with the applicable provision of state or municipal law  
249 concerning the filling of vacancies in said office.

250 (k) The provisions of this section shall not apply to any municipality  
251 for which state or municipal authority exists on the effective date of  
252 this section for the recall of an elected official of the municipality."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section